

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 290

Introduced by Redfield, 12; Combs, 32

Read first time January 13, 2003

Committee: Revenue

A BILL

1 FOR AN ACT relating to homesteads; to amend sections 77-3509.01 to
2 77-3509.03, 77-3511, 77-3521, 77-3522, and 77-3529,
3 Reissue Revised Statutes of Nebraska, and sections
4 77-2716.01, 77-3501, 77-3510, 77-3512 to 77-3514,
5 77-3516, and 77-3523, Revised Statutes Supplement, 2002;
6 to change provisions relating to income tax deductions;
7 to create a homestead exemption for property tax; to
8 harmonize provisions; to provide an operative date; and
9 to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2716.01, Revised Statutes
2 Supplement, 2002, is amended to read:

3 77-2716.01. (1) Every individual shall be allowed to
4 subtract from his or her income tax liability an amount for
5 personal exemptions. The amount allowed to be subtracted shall be
6 the credit amount for the year as provided in this section
7 multiplied by the number of exemptions allowed on the federal
8 return. For tax year 1993, the credit amount shall be sixty-five
9 dollars; for tax year 1994, the credit amount shall be sixty-nine
10 dollars; for tax year 1995, the credit amount shall be sixty-nine
11 dollars; for tax year 1996, the credit amount shall be seventy-two
12 dollars; for tax year 1997, the credit amount shall be eighty-six
13 dollars; for tax year 1998, the credit amount shall be eighty-eight
14 dollars; for tax year 1999, and each year thereafter, the credit
15 amount shall be adjusted for inflation by the method provided in
16 section 151 of the Internal Revenue Code of 1986, as amended. The
17 eighty-eight-dollar credit amount shall be adjusted for cumulative
18 inflation since 1998. If any credit amount is not an even dollar
19 amount, the amount shall be rounded to the nearest dollar. The
20 amount allowed for each personal exemption shall be reduced, but
21 not below zero, by five dollars for each five thousand dollars, or
22 portion thereof, that federal adjusted gross income exceeds ninety
23 thousand dollars for married filing joint returns, fifty-four
24 thousand dollars for single returns, seventy-five thousand dollars
25 for head-of-household returns, and for married filing separate
26 returns, one-half the amount stated in this subsection for married
27 filing joint returns. For nonresident individuals and partial-year
28 resident individuals, the personal exemption credit shall be

1 subtracted as specified in subsection (3) of section 77-2715. For
2 tax year 1994 and each tax year thereafter, the income levels
3 stated in this subsection shall be adjusted for inflation by the
4 method provided in section 151 of the Internal Revenue Code of
5 1986, as amended. If any income level in this subsection is not a
6 multiple of one thousand dollars, the amount shall be rounded to
7 the next highest multiple of one thousand dollars.

8 (2) Every individual who did not itemize deductions on
9 his or her federal return shall be allowed to subtract from federal
10 adjusted gross income a standard deduction equal to the federal
11 standard deduction for the filing status used on the federal return
12 except as the amount is adjusted under section 77-2716.03.

13 (3) Every individual who itemized deductions on his or
14 her federal return shall be allowed to subtract from federal
15 adjusted gross income the greater of either the standard deduction
16 allowed in subsection (2) of this section or the amount before the
17 federal disallowance of his or her federal itemized deductions,
18 except for (a) the amount deducted on the federal return for state
19 or local income taxes paid, (b) the amount deducted on the federal
20 return for residential property taxes, and (c) ~~and~~ the amount of
21 any adjustment required under section 77-2716.03.

22 Sec. 2. Section 77-3501, Revised Statutes Supplement,
23 2002, is amended to read:

24 77-3501. For purposes of sections 77-3501 to 77-3529 and
25 section 3 of this act, unless the context otherwise requires, the
26 definitions found in sections 77-3501.01 to 77-3505.04 shall be
27 used.

28 Sec. 3. All homesteads in this state shall be assessed

1 for taxation the same as other property, except that commencing
2 January 1, 2004, there shall be exempt from taxation the first four
3 thousand dollars of the actual value of the homestead.

4 Sec. 4. Section 77-3509.01, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-3509.01. The owner of a homestead which has been
7 granted an exemption provided in sections 77-3507 to 77-3509 or
8 section 3 of this act, who transfers the ownership of such
9 homestead and becomes the owner of another homestead prior to
10 August 15 during the year for which the exemption was granted, may
11 file an application with the county assessor of the county where
12 the new homestead is located, on or before August 15 of such year,
13 for a transfer of the exemption to the new homestead. The county
14 assessor shall examine each application and determine whether or
15 not the new homestead, except for the January 1 through August 15
16 ownership and occupancy requirement and the income requirements, is
17 eligible for exemption under sections 77-3507 to 77-3509 or section
18 3 of this act. If the application is approved by the county
19 assessor, he or she shall make a deduction upon the assessment
20 rolls using the same criteria as previously applied to the original
21 homestead. The county assessor may allow the application for
22 transfer to also be considered an application for a homestead
23 exemption for the subsequent year.

24 Sec. 5. Section 77-3509.02, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 77-3509.02. If the owner of any homestead granted an
27 exemption under sections 77-3507 to 77-3509 or section 3 of this
28 act transfers the ownership of such homestead on or before August

1 15 of any year pursuant to section 77-3509.01 and makes the
2 application for transfer of the homestead exemption and such
3 application is approved, the exemption shall be disallowed for such
4 year as applied to the original homestead if the exemption was
5 granted based on the status of such owner. If the transfer
6 involves property in more than one county, the county assessor of
7 the county where the new homestead is located shall notify the
8 other county assessor and the Department of Revenue of the
9 application for transfer within ten days after receipt of the
10 application.

11 Sec. 6. Section 77-3509.03, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-3509.03. All property tax statements for homesteads
14 granted an exemption in sections 77-3507 to 77-3509 or section 3 of
15 this act shall show the amount of the exemption, the tax that would
16 otherwise be due, and a statement that the tax loss shall be
17 reimbursed by the state as a homestead exemption.

18 Sec. 7. Section 77-3510, Revised Statutes Supplement,
19 2002, is amended to read:

20 77-3510. On or before April 1 of each year, the Tax
21 Commissioner shall prescribe forms to be used by all claimants for
22 homestead exemption or for transfer of homestead exemption. Such
23 forms shall contain provisions for the showing of all information
24 which the Tax Commissioner may deem necessary to (1) enable the
25 county officials and the Tax Commissioner to determine whether each
26 claim for exemption under sections 77-3507 to 77-3509 or section 3
27 of this act should be allowed and (2) enable the county assessor to
28 determine whether each claim for transfer of homestead exemption

1 pursuant to section 77-3509.01 should be allowed. It shall be the
2 duty of the county assessor of each county in this state to furnish
3 such forms, upon request, to each person desiring to make
4 application for homestead exemption or for transfer of homestead
5 exemption. The forms so prescribed shall be used uniformly
6 throughout the state, and no application for exemption or for
7 transfer of homestead exemption shall be allowed unless the
8 applicant uses the prescribed form in making an application. The
9 forms shall require the attachment of an income statement as
10 prescribed by the Tax Commissioner fully accounting for all
11 household income. The application and information contained on any
12 attachments to the application shall be confidential and available
13 to tax officials only.

14 Sec. 8. Section 77-3511, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 77-3511. The application for homestead exemption or for
17 transfer of homestead exemption shall be signed by the owner of the
18 property who qualifies for exemption under sections 77-3501 to
19 77-3529 and section 3 of this act unless the owner is an
20 incompetent or unable to make such application, in which case it
21 shall be signed by the guardian. If an owner who in all respects
22 qualifies for a homestead exemption under such sections dies after
23 January 1 and before the last day for filing an application for a
24 homestead exemption and before applying for a homestead exemption,
25 his or her personal representative may file the application for
26 exemption on or before the last day for filing an application for a
27 homestead exemption of that year if the surviving spouse of such
28 owner continues to occupy the homestead. Any exemption granted as

1 a result of such application signed by a personal representative
2 shall be in effect for only the year in which the owner died.

3 Sec. 9. Section 77-3512, Revised Statutes Supplement,
4 2002, is amended to read:

5 77-3512. It shall be the duty of each owner who applies
6 for the homestead exemption provided in sections 77-3507 to 77-3509
7 or section 3 of this act to file an application therefor with the
8 county assessor of the county in which the homestead is located
9 after ~~January 1, 1997,~~ and April 1 in subsequent years and on or
10 before June 30 of each year. Failure to do so shall constitute a
11 waiver of the exemption for that year, except that the county board
12 of the county in which the homestead is located may, by majority
13 vote, extend the deadline to on or before July 20 of each year. An
14 extension shall not be granted to an applicant who received an
15 extension in the immediately preceding year.

16 Sec. 10. Section 77-3513, Revised Statutes Supplement,
17 2002, is amended to read:

18 77-3513. (1) Except as required by section 77-3514, if
19 an owner is granted a homestead exemption as provided in section
20 77-3507 or 77-3509, section 3 of this act, or subdivision (1)(b) or
21 (c) of section 77-3508, no reapplication need be filed for
22 succeeding years, in which case the county assessor and Tax
23 Commissioner shall determine whether the claimant qualifies for the
24 homestead exemption in such succeeding years as otherwise provided
25 in sections 77-3501 to 77-3529 and section 3 of this act as though
26 a claim were made.

27 (2) For tax year 2004, all persons who apply for a
28 homestead exemption provided in section 3 of this act shall file an

1 application pursuant to section 77-3512. For tax year 2005 and
2 subsequent tax years, if an owner has been granted a homestead
3 exemption as provided in section 3 of this act, no reapplication
4 need be filed for succeeding years, in which case the county
5 assessor and Tax Commissioner shall determine whether the claimant
6 qualifies for the homestead exemption in such succeeding year as
7 otherwise provided in sections 77-3501 to 77-3529 and section 3 of
8 this act as though a claim were made. An applicant for an
9 exemption shall not receive more than one exemption pursuant to
10 such sections.

11 (3) It shall be the duty of each claimant who wants the
12 homestead exemption provided in subdivision (1)(a) of section
13 77-3508 to file an application therefor with the county assessor on
14 or before June 30 of each year. Failure to do so shall constitute
15 a waiver of the exemption for such year, except that the county
16 board of the county in which the homestead is located may, by
17 majority vote, extend the deadline to on or before July 20 of each
18 year. An extension shall not be granted to an applicant who
19 received an extension in the immediately preceding year.

20 Sec. 11. Section 77-3514, Revised Statutes Supplement,
21 2002, is amended to read:

22 77-3514. A claimant who is the owner of a homestead
23 which has been granted an exemption under sections 77-3507 to
24 77-3509, except subdivision (1)(a) of section 77-3508 and section 3
25 of this act, shall certify to the county assessor on or before June
26 30 of each year that a change in the homestead exemption status has
27 occurred or that no change in the homestead exemption status has
28 occurred. The county board of the county in which the homestead is

1 located may, by majority vote, extend the deadline to on or before
2 July 20 of each year. An extension shall not be granted to an
3 applicant who received an extension in the immediately preceding
4 year. For purposes of this section, change in the homestead
5 exemption status shall include any change in the name of the owner,
6 ownership, residence, occupancy, marital status, veteran status, or
7 rating by the United States Department of Veterans Affairs or any
8 other change that would affect the qualification for or type of
9 exemption granted, except income checked by the Tax Commissioner
10 under section 77-3517. The certificate shall require the
11 attachment of an income statement as prescribed by the Tax
12 Commissioner fully accounting for all household income. The
13 certification and the information contained on any attachments to
14 the certification shall be confidential and available to tax
15 officials only. In addition, a claimant who is the owner of a
16 homestead which has been granted an exemption under sections
17 77-3507 to 77-3509 or section 3 of this act may notify the county
18 assessor by August 15 of each year of any change in the homestead
19 exemption status occurring in the preceding portion of the calendar
20 year as a result of a transfer of the homestead exemption pursuant
21 to sections 77-3509.01 and 77-3509.02. If by his or her failure to
22 give such notice any property owner permits the allowance of the
23 homestead exemption for any year, or in the year of application in
24 the case of transfers pursuant to sections 77-3509.01 and
25 77-3509.02, after the homestead exemption status of such property
26 has changed, an amount equal to the amount of the taxes lawfully
27 due but not paid by reason of such unlawful and improper allowance
28 of homestead exemption, together with penalty and interest on such

1 total sum as provided by statute on delinquent ad valorem taxes,
2 shall be due and shall upon entry of the amount thereof on the
3 books of the county treasurer be a lien on such property while
4 unpaid. Such lien may be enforced in the manner provided for liens
5 for other delinquent taxes. Any person who has permitted the
6 improper and unlawful allowance of such homestead exemption on his
7 or her property shall, as an additional penalty, also forfeit his
8 or her right to a homestead exemption on any property in this state
9 for the two succeeding years.

10 Sec. 12. Section 77-3516, Revised Statutes Supplement,
11 2002, is amended to read:

12 77-3516. The county assessor shall examine each
13 application for homestead exemption filed with him or her for an
14 exemption pursuant to sections 77-3507 to 77-3509 or section 3 of
15 this act and shall determine, except for the income requirements,
16 whether or not such application should be approved or rejected. If
17 the application is approved, the county assessor shall mark the
18 same approved and sign the application. In case he or she finds
19 that the exemption should not be allowed by reason of not being in
20 conformity to law, the county assessor shall mark the application
21 rejected and state thereon the reason for such rejection and sign
22 the application. In any case when the county assessor rejects an
23 application for exemption, he or she shall notify the applicant of
24 such action by mailing written notice to the applicant at the
25 address shown in the application, which notice shall be mailed not
26 later than July 31 of each year, except that in cases of a change
27 in ownership or occupancy from January 1 through August 15 or a
28 late application authorized by the county board, the notice shall

1 be sent within a reasonable time. The notice shall be on forms
2 prescribed by the Tax Commissioner.

3 Sec. 13. Section 77-3521, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-3521. It shall be the duty of the Tax Commissioner to
6 adopt and promulgate rules and regulations for the information and
7 guidance of the county assessors and county boards of equalization,
8 not inconsistent with sections 77-3501 to 77-3529 and section 3 of
9 this act, affecting the application, hearing, assessment, or
10 equalization of property which is claimed to be entitled to the
11 exemption granted by such sections.

12 Sec. 14. Section 77-3522, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 77-3522. (1) Any person who makes any false or
15 fraudulent claim for exemption or any false statement or false
16 representation of a material fact in support of such claim or any
17 person who assists another in the preparation of any such false or
18 fraudulent claim or enters into any collusion with another by the
19 execution of a fictitious deed or other instrument for the purpose
20 of obtaining unlawful exemption under sections 77-3501 to 77-3529
21 and section 3 of this act shall be guilty of a Class II misdemeanor
22 and shall be subject to a forfeiture of any such exemption for a
23 period of two years from the date of conviction. Any person who
24 shall make an oath or affirmation to any false or fraudulent
25 application for homestead exemption knowing the same to be false or
26 fraudulent shall be guilty of a Class I misdemeanor.

27 (2) In addition to the penalty provided in subsection (1)
28 of this section, if any person files a claim for exemption as

1 provided in section 77-3507, 77-3508, or 77-3509 or section 3 of
2 this act which is excessive due to misstatements by the owner
3 filing such claim, the claim may be disallowed in full and, if the
4 claim has been allowed, an amount equal to the amount of taxes
5 lawfully due but not paid by reason of such unlawful and improper
6 allowance of homestead exemption shall be due and shall upon entry
7 of the amount thereof on the books of the county treasurer be a
8 lien on such property until paid and a penalty equal to the amount
9 of taxes lawfully due but claimed for exemption shall be assessed.

10 Sec. 15. Section 77-3523, Revised Statutes Supplement,
11 2002, is amended to read:

12 77-3523. The county treasurer shall, on or before
13 November 30 of each year, certify to the Tax Commissioner the total
14 tax revenue that will be lost to all taxing agencies within his or
15 her county from taxes levied and assessed in that year because of
16 exemptions allowed under ~~Chapter 77, article 35~~ sections 77-3501 to
17 77-3529 and section 3 of this act, multiplied by the aggregate
18 assessment sales ratio calculated by the Property Tax Administrator
19 for all single-family residential real property in the county for
20 the current year after adjustments by the Tax Equalization and
21 Review Commission, except that any assessment sales ratio greater
22 than 100 or any assessment sales ratio that complies with the
23 standards of equalization as determined by the commission shall be
24 deemed to be 100 for such purpose. The county treasurer may amend
25 the certification to show any change or correction in the total tax
26 that will be lost until May 30 of the next succeeding year. If a
27 homestead exemption is approved, denied, or corrected by the Tax
28 Commissioner under subsection (2) of section 77-3517 after May 1 of

1 the next year, the county treasurer shall prepare and submit
2 amended reports to the Tax Commissioner and the political
3 subdivisions covering any affected year and shall adjust the
4 reimbursement to the county and the other political subdivisions by
5 adjusting the reimbursement due under this section in later years.
6 The Tax Commissioner shall, on or before January 1 next following
7 such certification or within thirty days of any amendment to the
8 certification, notify the Director of Administrative Services of
9 the amount so certified to be reimbursed by the state.
10 Reimbursement of the funds lost shall be made to each county
11 according to the certification and shall be distributed in six as
12 nearly as possible equal monthly payments on the last business day
13 of each month beginning in January. The State Treasurer shall, on
14 the business day preceding the last business day of each month,
15 notify the Director of Administrative Services of the amount of
16 funds available in the General Fund for payment purposes. The
17 Director of Administrative Services shall, on the last business day
18 of each month, draw warrants against funds appropriated. Out of
19 the amount so received the county treasurer shall distribute to
20 each of the taxing agencies within his or her county the full
21 amount so lost by such agency, multiplied by the aggregate
22 assessment sales ratio calculated by the Property Tax Administrator
23 for all single-family residential real property in the county for
24 the current year after adjustments by the commission, except that
25 any assessment sales ratio greater than 100 or any assessment sales
26 ratio that complies with the standards of equalization as
27 determined by the commission shall be deemed to be 100 for such
28 purpose, except that one percent of such amount shall be deposited

1 in the county general fund and that the amount due a Class V school
2 district shall be paid to the district and the county shall be
3 compensated pursuant to section 14-554. Each taxing agency shall,
4 in preparing its annual or biennial budget, take into account the
5 amount to be received under this section.

6 Sec. 16. Section 77-3529, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-3529. If any application for exemption pursuant to
9 sections 77-3501 to 77-3529 and section 3 of this act is denied and
10 the applicant would be qualified for any other exemption under such
11 sections, then such denied application shall be treated as an
12 application for the highest exemption for which qualified. Any
13 additional documentation necessary for such other exemption shall
14 be submitted to the county assessor within a reasonable time after
15 receipt of the notice of denial. An applicant for an exemption
16 shall not receive more than one exemption pursuant to such
17 sections.

18 Sec. 17. This act becomes operative on January 1, 2004.

19 Sec. 18. Original sections 77-3509.01 to 77-3509.03,
20 77-3511, 77-3521, 77-3522, and 77-3529, Reissue Revised Statutes of
21 Nebraska, and sections 77-2716.01, 77-3501, 77-3510, 77-3512 to
22 77-3514, 77-3516, and 77-3523, Revised Statutes Supplement, 2002,
23 are repealed.